

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

VICTOR and CORA LEE MILLER

DEFENDANTS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff CLARK
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

THOMAS E. CROWE, ESQ.
7381 W. CHARLESTON, #110, LAS VEGAS, NV 89117

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 375 Trust in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1335E) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 PSI (425(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Arbitration <input type="checkbox"/> 410 Banks and Banking <input type="checkbox"/> 450 Consumer <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat. TV <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities Exchange <input type="checkbox"/> 575 Customer Challenge 12 USC 3410 <input type="checkbox"/> 590 Other Statutory Actions <input type="checkbox"/> 591 Agricultural Acts <input type="checkbox"/> 592 Economic Stabilization Act <input type="checkbox"/> 593 Environmental Matters <input type="checkbox"/> 594 Energy Allocation Act <input type="checkbox"/> 595 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 520 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions	IMMIGRATION <input type="checkbox"/> 452 Naturalization Application <input type="checkbox"/> 453 Habeas Corpus - Alien Detainee <input type="checkbox"/> 455 Other Immigration Actions		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
18 U.S.C. 8752

Brief description of cause:
COMPLAINT FOR REFUND

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$ 1,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/20/09
FOR OFFICE USE ONLY

Thomas E. Crowe

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

E FILED ON 10/20/09
THOMAS E. CROWE, ESQ.
THOMAS E. CROWE PROFESSIONAL
LAW CORPORATION
State Bar No. 3048
7381 W. Charleston Blvd.
Suite 110
Las Vegas, NV 89117
(702) 794-0373
Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * * * *

VICTOR MILLER and CORA LEE MILLER,)	
)	
Plaintiffs,)	CASE NO.
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

COMPLAINT FOR REFUND

Come now, the Plaintiffs, VICTOR MILLER and CORA LEE MILLER, by and through their attorney, THOMAS E. CROWE, ESQ., and as and for their claim for relief against the Defendant, allege as follows:

JURISDICTION

1. Jurisdiction of this action is based upon provisions of 28 U.S.C. §1346(a)(1), this action being for a claim for refund claim under I.R.C. §6532(a)(1).

VENUE AND APPROPRIATE DIVISION

2. Under provisions of 28 U.S.C. §1402(c), venue in this action is properly placed in

the judicial district wherein the Plaintiff resides. Such judicial district is the District of Nevada.

COUNT ONE

3. On or about October 15, 2007, Plaintiffs filed their delinquent tax returns for the tax years 2000, 2002, 2005 and 2006. On or about December 28, 2007, Plaintiffs filed their delinquent tax return for the tax year 2001.

4. Despite the filing of those returns, Defendant continued to levy on Plaintiffs' earnings, resulting in the full payment of any liabilities to Defendant by June of 2007.

5. Since that date and continuing through May 2009, Defendant continued to levy on Plaintiffs' earnings in a total amount in excess of \$100,000.00 during the previous two year period.

6. Pursuant to I.R.C. §6532, all or a portion of such amounts constitute a refundable overpayment of income tax to Plaintiffs.

7. Plaintiffs' refund requests contained in Plaintiffs' filed returns have been deemed denied by lack of response to said requests under I.R.C. §6532(1).

8. Plaintiffs herein request that the Court order the refund of said monies to Plaintiffs with interest as provided by law.

COUNT TWO

9. Plaintiffs repeat and reallege the facts contained in paragraphs 1 through 8 above as though fully set forth herein.

10. Although Plaintiffs paid in all amounts necessary to satisfy their liability to the United States by June 2007, Defendant continued to levy upon Mr. Miller's salary from Clark County Nevada until May, 2009.

11. Plaintiffs have exhausted all administrative remedies available to attempt to have the levy abated.

12. Plaintiffs have suffered economic damages as a result of the improper levy in an amount not in excess of One Million Dollars (\$1,000,000.00).

WHEREFORE, Plaintiffs pray

1. That the Court order the refund of said monies to Plaintiffs with interest as provided by law;

2. For economic damages in an amount in not in excess of \$1,000,000.00;
3. For punitive damages;
4. For attorney's fees and costs and interest as provided by law; and
5. For such other and further relief as the Court may deem proper.

DATED this 20th day of October, 2009.

THOMAS E. CROWE PROFESSIONAL
LAW CORPORATION

/s/ THOMAS E. CROWE
THOMAS E. CROWE, ESQ.
State Bar No. 3048
7381 W. Charleston Blvd.
Suite 110
Las Vegas, NV 89117
Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

for the

District of Nevada

VICTOR AND CORA LEE MILLER)	
<i>Plaintiff</i>)	
v.)	Civil Action No.
UNITED STATES OF AMERICA)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* ATTORNEY GENERAL
10TH and CONSTITUTION
WASHINGTON, DC 20530

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: THOMASE. CROWE, ESQ.
7381 W. CHARLESTON BLVD.
SUITE 110
LAS VEGAS, NV 89117

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT

for the

District of Nevada

VICTOR AND CORA LEE MILLER

Plaintiff

v.

UNITED STATES OF AMERICA

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* UNITED STATES ATTORNEY
DISTRICT OF NEVADA
333 LAS VEGAS BLVD. SOUTH
SUITE 5000
LAS VEGAS, NV 89101

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: THOMAS E. CROWE, ESQ.
7381 W. CHARLESTON BLVD.
SUITE 110
LAS VEGAS, NV 89117

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT

for the

District of Nevada

VICTOR AND CORA LEE MILLER)	
<i>Plaintiff</i>)	
v.)	Civil Action No.
UNITED STATES OF AMERICA)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* INTERNAL REVENUE SERVICE
210 E. EARL DR.
PHOENIX, AZ 85013
ATT: AREA DIRECTOR

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: THOMAS E. CROWE, ESQ.
7381 W. CHARLESTON BLVD.
SUITE 110
LAS VEGAS, NV 89117

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk